

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION


No. 5:07-HC-02042-FL

UNITED STATES OF AMERICA,)
)
 Petitioner,)
)
 v.)
)
BYRON NEIL ANTONE,)
)
 Respondent.)

ORDER

This matter is before the court on respondent's first motion to dismiss the petition against him, filed September 11, 2007. (DE # 10.) Respondent filed the motion prior to the Supreme Court's decision in United States v. Comstock, __ U.S. __, 130 S. Ct. 1949 (2010), and on June 22, 2010, respondent filed a second motion to dismiss which incorporates the current case law and renews his request for dismissal. In light of the foregoing, respondent's first motion to dismiss (DE # 10) is DENIED as moot and without prejudice.

SO ORDERED, this the 20th day of October, 2010.


LOUISE W. FLANAGAN
Chief United States District Judge